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(iii) Copies of the certification from the exporter; and copies of any accompanying information regarding the identity of coded R&D products.

(d) *Agency transmission of purchaser acknowledgement statements.* EPA will transmit a copy of each purchaser acknowledgement statement to the appropriate government official in each of the intended destination countries. After receipt of the Annual Summary the following calendar year, EPA will also transmit a copy of that document to the appropriate government official in each of the intended destination countries. In the case that no Annual Summary has been received within 30 days of the date at which such summary is required to be submitted, EPA will send written notification to the appropriate government official indicating that no summary was submitted, and may also take enforcement action against the exporter.

[58 FR 9085, Feb. 18, 1993, as amended at 69 FR 23117, Apr. 28, 2004; 71 FR 35546, June 21, 2006; 72 FR 61029, Oct. 26, 2007]

§ 168.85 Other export requirements.

This section describes other requirements found in regulations that apply to exporters of pesticides, devices, and active ingredients used in producing a pesticide.

(a) *Recordkeeping and inspection.* Exporters of pesticides, devices and active ingredients must keep records and permit inspections of those records in accordance with part 169 of this chapter. Exporters must keep records of the product labeling used, including the EPA registered labeling, any foreign labeling on or attached to the product when shipped, and, as applicable, any supplemental labeling used. Producers of pesticides for export shall maintain these records in a manner that shows exactly which labels and labeling accompanied each shipment of a pesticide product to a foreign country. As stated at § 168.75(c), when research product identity information appears on the labeling in an encoded manner, information translating the code shall be maintained in records. These records shall be maintained for the time period required by § 169.2(h) of this chapter following the last export of such pesticides. All records required by part 169

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of this chapter shall be made available for inspection and copying by EPA or its duly authorized representatives.

(b) *Pesticide production establishment requirements.* Exporters of pesticides, devices, and active ingredients must submit annual reports to EPA in accordance with part 167 of this chapter, concerning those products that are exported. All products required to be labeled “Not Registered for Use in the United States of America” must be reported as unregistered production regardless of whether a purchaser acknowledgement statement is required.

PART 169—BOOKS AND RECORDS OF PESTICIDE PRODUCTION AND DISTRIBUTION

Sec.

169.1 Definitions.

169.2 Maintenance of records.

169.3 Inspection.

AUTHORITY: 7 U.S.C. 136f and 136w.

SOURCE: 45 FR 54338, Aug. 15, 1980, unless otherwise noted.

§ 169.1 Definitions.

Terms used in this part shall have the meanings set forth for such terms in the Federal Insecticide, Fungicide, and Rodenticide Act, as amended. In addition, as used in this part, the following terms shall have the meanings set forth below:

(a) *Amount of pesticide or active ingredient.* The term “amount of pesticide or active ingredient” means the weight or volume of the pesticide or active ingredient used in producing a pesticide expressed as weight for solid or semi-solid products and as weight or volume of liquid products.

(b) *Batch.* The term “batch” means a quantity of a pesticide product or active ingredient used in producing a pesticide made in one operation or lot or if made in a continuous or semi-continuous process or cycle, the quantity produced during an interval of time to be specified by the producer.

(c) *Device.* The term “device” means any device or class of device as defined by the Act and determined by the Administrator to be subject to the provisions of the Act.

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(d) *Inability.* The term “inability” means the incapacity of any person to maintain, furnish or permit access to any records under this Act and regulations, where such incapacity arises out of causes beyond the control and without the fault or negligence of such person. Such causes may include, but are not restricted to acts of God or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather, but in every case, the failure must be beyond the control and without the fault or negligence of said person.

(e) *Producer.* The term “producer” means the person, as defined by the Act, who produces or imports any pesticide or device or active ingredient used in producing a pesticide.

§ 169.2 Maintenance of records.

All producers of pesticides, devices, or active ingredients used in producing pesticides subject to this Act, including pesticides produced pursuant to an experimental use permit and pesticides, devices, and pesticide active ingredients produced for export, shall maintain the following records:

(a) Records showing the product name, EPA Registration Number, Experimental Permit Number if the pesticide is produced under an Experimental Use Permit, amounts per batch and batch identification (numbers, letters, etc.) of all pesticides produced. In cases where the product is an active ingredient used in producing a pesticide or where the product is a pesticide which is not registered, is not the subject of an application for registration, or is not produced under an Experimental Use Permit, the records shall also show the complete formula. The batch identification shall appear on all production control records. These records shall be retained for a period of two (2) years.

(b) Records showing the brand names and quantities of devices produced. These records shall be retained for a period of two (2) years.

(c) Records showing the following information regarding the receipt, by the producer, of all pesticides, devices, and active ingredients used in producing pesticides:

- (1) Brand name of the pesticide or device, or common or chemical name of the pesticide active ingredient;
- (2) Name and address of shipper;
- (3) Name of delivering carrier;
- (4) Date received; and
- (5) Quantities received.

These records are not intended to cover receipt of pesticides used for in-plant maintenance, extermination, or sanitation programs, etc. Shipping and receiving documents such as invoices, freight bills, receiving tickets, etc., which provide the required information will be considered satisfactory for the purposes of this section. These records shall be retained for a period of two (2) years.

(d) Records showing the following information regarding the shipment of all pesticides, devices, and active ingredients used in producing pesticides:

- (1) Brand name of pesticide or device, or the common or chemical name of the pesticide active ingredient;
- (2) Name and address of consignee;
- (3) Where the pesticide is produced pursuant to an experimental use permit (FIFRA section 5), a special exemption (section 18), or a special local need (section 24), the information required under these sections and any regulations promulgated thereto regarding the distribution of such pesticides;
- (4) Name of originating carrier;
- (5) Date shipped or delivered for shipment; and
- (6) Quantities shipped or delivered for shipment.

Such records are required regardless of whether any shipment or receipt of shipment is between plants owned or otherwise controlled by the same person. Shipping and receiving documents such as invoices, freight bills, receiving tickets, etc., which provide the required information will be considered satisfactory for purposes of this section. These records shall be retained for a period of two (2) years.

(e) Inventory records with respect to the types and amounts of pesticides or pesticide active ingredients, or quantities of devices in stock which he has produced. These records may be disposed of when a more current inventory record is prepared.